REMARKS

The Office Action dated November 1, 2007 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1-19 are presently pending in the application are respectfully submitted for reconsideration.

Claims 1-6, 9-16 and 19 were rejected under 35 U.S.C. §102(e) as being anticipated by Buskirk (U.S. Patent Publication No. 2006/0159019). The Office Action took the position that Buskirk discloses all of the features of the claims. This rejection is respectfully traversed for at least the following reasons.

Claim 1, upon which claims 2-9 are dependent, recites a method that includes setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type, and incrementing a plurality of buckets, each bucket communicatively coupled to a packet type filter of the plurality of filters. The method further includes receiving a packet having a packet type, measuring the bucket that is coupled to the packet type filter that filters for the received packet type, and transmitting the packet if its measured bucket is above a threshold value.

Claim 10 recites a system which includes means for setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type, and means for incrementing a plurality of buckets, each bucket communicatively coupled to a packet type filter of the plurality of filters. The system further includes

means for receiving a packet having a packet type, means for measuring the bucket that is coupled to the packet type filter that filters for the received packet type, and means for transmitting the packet if the measured bucket is above a threshold value.

Claim 11, upon which claims 12-19 are dependent, recites a system that includes a packet receiving engine, configured to receive packets of at least a first type and a second type, a plurality of buckets, each communicatively coupled to the packet receiving engine, each communicatively coupled to a packet type filter of a plurality of packet type filters, each packet type filter being configured to filter at least one packet type. The system further includes a bucket updating engine, communicatively coupled to the packet receiving engine, configured to increment a first bucket and a second bucket, a packet handling engine, communicatively coupled to the packet receiving engine, configured to measure the bucket coupled to the packet type filter that filters for the type of packet received, and configured to transmit the received packet if the measured bucket is above a threshold value.

As will be discussed below, the teachings of Buskirk fail to disclose or suggest all of the elements of the claims, and therefore fails to provide the features discussed above. The rejection is respectfully traversed for at least the following reasons.

Buskirk discloses a method for policing multiple data flows and multi-protocol data flows. A current capacity level for each flow is determined along with a packet protocol associated with each packet. A packet parameter used to identify the bandwidth consumption of the packet is also determined, and a bandwidth capacity test is performed

to determine whether the packet is conforming or non-conforming based on a function of the packet parameter and a current bandwidth capacity level.

The Office Action relied on various paragraphs of Buskirk as allegedly disclosing the subject matter recited in independent claims 1, 10 and 11. After having reviewed those portions of the specification considered pertinent by the Office Action, Applicant respectfully disagrees that Buskirk discloses all of the features recited in the claims.

Paragraph [0055] of Buskirk discloses a classifier 402 that classifies/parses the incoming stream into separate logical flows with the flow identifier embedded in the local header of a cell/packet (see FIG. 4 of Buskirk). The classifier 402 is a single unit that is used to classify individual packets into a variety of different "flows" or "connections" (see paragraphs [0055] and [0058] of Buskirk). Buskirk does not provide any support for "setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type", as recited, in part, in independent claim 1 and similarly in independent claims 10 and 11.

The Office Action further relied on the teachings of claim 104 of Buskirk as allegedly disclosing the subject matter of claim 1 of the present application. Applicant disagrees that claim 104 is valid prior art under the 35 U.S.C. §112, first paragraph, written description requirement.

Initially, Applicant notes that claim 104 of Buskirk was first introduced in the specification of Buskirk at the time of filling the most recent Buskirk application (Application serial No. 11/231,297 - U.S. Patent Publication No. 2006/0159019

"Buskirk"). In other words, the two priority applications noted on the face of Buskirk (application - 11/058,904 and application - 09/849,914 (now U.S. Patent No. 6,901,052)) did not include claim 104. The first time claim 104 was introduced was at the filing of the present Buskirk application (U.S. Patent Publication No. 2006/0159019 "Buskirk"), which has a filing date of September 20, 2005. The present application has a filing date of December 31, 2003 and a publication date of June 30, 2005, both of which pre-date the filing date of Buskirk.

It is clear that the original subject matter of claim 1 of the present application was copied word for word in claim 104 of Buskirk. Although, Buskirk may be attempting to establish rights to Applicant's invention, Buskirk's disclosure does not provide adequate support for the subject matter of claim 104. Specifically, the specification and figures of Buskirk is deficient with respect to the subject matter of claim 104, for example, the disclosure of Buskirk does not provide support for "setting a plurality of packet type filters so that each filters for a different packet type" (emphasis added). As stated above, the only packet handling performed by Buskirk, identified by the Office Action as a filtering operation, is performed by the classifier 402. The classifier 402 handles all packet classifying regardless of the packet's type. The specification of Buskirk simply does not provide support for the above noted features of claim 104 of Buskirk or claim 1 of the present application.

Applicant kindly requests that claimed subject matter recited in independent claim 1, and similarly in independent claims 10 and 11, and those claims dependent thereon, be

allowed over Buskirk for at least the reason that the subject matter of claim 104 is not supported by Buskirk's specification. Withdrawal of the rejection of claims 1-6, 9-16 and 19 is kindly requested.

Claims 7, 8, 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Buskirk. Applicant submits that for at least the reasons stated above, Buskirk fails to teach or suggest all of the subject matter of independent claims 1, 10 and 11. In addition to the above noted deficiencies of Buskirk, claims 7, 8, 17 and 18 are dependent on claims 1 and 11, and should be allowed for at least the same reasons as claims 1 and 11, and for the specific features recited therein. Withdrawal of the rejection of the claims 7, 8, 17 and 18 is kindly requested.

Claims 1-3, 6-13 and 16-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weberhofer (U.S. Patent No. 6,014,384) in view of paragraph [0003] of Applicant's disclosure, hereinafter 'A.D. [0003]'. The Office Action took the position that Weberhofer discloses all of the elements of the claims, with the exception of a packet handling engine, communicatively coupled to the packet receiving engine, for measuring the bucket coupled to the packet type filter that filters for the type of packet received and for transmitting the received packet if the measured bucket is above a threshold value. The Office Action then cited A.D. [0003] as allegedly curing this deficiency in Weberhofer. This rejection is respectfully traversed for at least the following reasons.

Claim 1, upon which claims 2-9 are dependent, recites a method that includes setting a plurality of packet type filters so that each of said packet type filters performs

filtering for a different packet type, and incrementing a plurality of buckets, each bucket communicatively coupled to a packet type filter of the plurality of filters. The method further includes receiving a packet having a packet type, measuring the bucket that is coupled to the packet type filter that filters for the received packet type, and transmitting the packet if its measured bucket is above a threshold value.

Claim 10 recites a system which includes means for setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type, and means for incrementing a plurality of buckets, each bucket communicatively coupled to a packet type filter of the plurality of filters. The system further includes means for receiving a packet having a packet type, means for measuring the bucket that is coupled to the packet type filter that filters for the received packet type, and means for transmitting the packet if the measured bucket is above a threshold value.

Claim 11, upon which claims 12-19 are dependent, recites a system that includes a packet receiving engine, configured to receive packets of at least a first type and a second type, a plurality of buckets, each communicatively coupled to the packet receiving engine, each communicatively coupled to a packet type filter of a plurality of packet type filters, each packet type filter being configured to filter at least one packet type. The system further includes a bucket updating engine, communicatively coupled to the packet receiving engine, configured to increment a first bucket and a second bucket, a packet handling engine, communicatively coupled to the packet receiving engine, configured to measure the bucket coupled to the packet type filter that filters for the type of packet

received, and configured to transmit the received packet if the measured bucket is above a threshold value.

As will be discussed below, the combination of Weberhofer and A.D. [0003] fails to disclose or suggest all of the elements of the claims, and therefore fails to provide the features discussed above. The rejection is respectfully traversed for at least the following reasons.

Weberhofer discloses a method for controlling data traffic in an ATM network. The ATM cells are processed according to their assignment to one of a plurality of quality of service (QoS) classes. The ATM cells are first identified using a mapper 18 which determines the QoS class of the ATM cell and directs the identified ATM cell to the proper queue 19.1, 19.2, 19.3 or 19.4 based on an assigned transmission priority (see column 4, lines 45-50 and FIG. 2 of Weberhofer). The mapper 18 is further configured to assign QoS classes to the ATM cells based on the information contained in the header of the ATM cells and an allocation table (see column 5, lines 3-6 of Weberhofer).

Weberhofer does not teach or suggest "setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type", as recited, in part, in claim 1. The Office Action concluded that the mapper 18 and queues 19.1, 19.2, 19.3 and 19.3 are the same as a plurality of packet type filters. Applicants disagree and submit that the mapper 18 and the queues 19.1, 19.2, 19.3 and 19.4 do not teach a plurality of filters, as recited, in part, in claim 1.

Referring to the specification of the present application, FIG. 2 illustrates **two packet filters (PTFs) which include PTF 205 and PTF 210** (emphasis added). An example of the "filter" operation is disclosed on line 9 of paragraph [0020] of the present application as "a packet has been filtered, e.g., determined to be of a certain type."

The subject matter of the claims clearly recites that there are "**a plurality of packet type filters**"(emphasis added). Webenhofer fails to disclose a plurality of packet type filters and uses **a "mapper 18" which determines which QoS class a cell [packet] belongs to** (see column 4, lines 45-50 of Webenhofer). The mapper 18 is what performs the determining of the QoS of the cells, and because there is only **one** mapper 18, there can be no plurality of mappers, filters or any other component that is used to perform the cell/packet type determining operations.

The Office Action defended the position that because mapper 18 can classify more than one cell type it must have "a number of different means/elements that classify/identify different QoS classes and that each means/element, whether it is hardware or software, must be dedicated to identifying one of the QoS classes and assigning it to an ATM cell." Applicant submits that the reasoning provided by the Office Action is impermissible hindsight and is improper. What could or should have been used in the mapper 18 cannot be used as a basis for what is lacking in the teachings of Webenhofer. The fact remains that Webenhofer does not use more than one single component to perform QoS determinations of cells prior to organizing the cells by QoS in a plurality of queues 19.1, 19.2, 19.3 and 19.4. Therefore, Webenhofer does not teach the

subject matter of the claims as alleged by the Office Action. Neither paragraph [0003] of the Applicant's disclosure or Webenhofer teach or suggest "setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type", as recited, in part, in independent claim 1 or similarly in independent claims 10 and 11. Because the combination of Webenhofer and Applicant's disclosure fail to teach all of the subject matter of the claims, the rejection has failed to establish a *prima facie* case of obviousness. Therefore, the rejection is improper and must be withdrawn.

For at least the reasons discussed above, Applicants respectfully submit that independent claim 1, and similarly independent claims 10-11 are allowable over the Applicant's disclosure and Weberhofer. By virtue of dependency, claims 2-9 and 12-19 are also allowable over Weberhofer and Applicant's disclosure. Withdrawal of the rejection of those claims and an allowance thereof is respectfully requested.

Claims 4-5 and 14-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weberhofer in view of A.D. [0003], and in further view of Zhang (U.S. Patent No. 7,130,917). Applicants respectfully traverse this rejection.

Weberhofer in view of A.D. [0003] are discussed above. Zhang discloses a method for providing a QoS to gateway users in a data traffic network. A host object represents a user who subscribes to a particular service and an appropriate provisioning scheme is used to determine which packets to discard when a traffic limit has been exceeded.

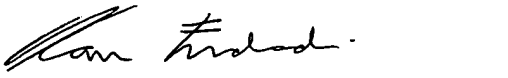
Claims 4-5 and 14-15 are dependent upon claims 1 and 11 and inherit all of the limitations thereof. As discussed above, the combination of Weberhofer and A.D. [0003] fail to disclose or suggest all of the elements of claims 1 and 11. In addition, Zhang fails to cure the deficiencies in Weberhofer and A.D. [0003] as Zhang also fails to teach or suggest "setting a plurality of packet type filters so that each of said packet type filters performs filtering for a different packet type", as recited, in part, in claim 1. Thus, the combination of Weberhofer, A.D. [0003] and Zhang fails to teach or suggest all of the elements of claims 4-5 and 14-15. Furthermore, claims 4-5 and 14-15 should be allowed for at least their dependence upon claims 1 and 11, and for the specific limitations recited therein.

For at least the reasons discussed above, Applicants respectfully submit that the cited references fail to teach or suggest all of the elements of the claimed invention. These distinctions are more than sufficient to render the claimed invention unanticipated and unobvious. It is therefore respectfully requested that all of claims 1-19 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant's undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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